

REMARKS

Introduction

Claims 49-87 are pending in this application, claims 1-48 having been canceled without prejudice to their reintroduction herein or in a future continuation or divisional application.

Applicant respectfully submits that the subject matter of the new claims is fully supported by the original disclosure. In independent claims 49, 72, and 81, the recitation of the wooden insert having a groove sized to accommodate a locking mechanism is supported in the original disclosure at, for example, page 8, lines 6-9. Other features of these new independent were recited in canceled claims 1-48.

Claims 49 and 50 are based on amended claim 1, now canceled. Claims 51-69 and 71 are based on now canceled claims 2-7, 10-21, 39, and 22, respectively. Claim 73-79 are based on now canceled claims 23-26 and 29-31, respectively. New claims 82-86 are based on now canceled claims 33-36 and 38, respectively. New claims 70, 80, and 87 are supported in the original disclosure at, for example, page 8, lines 8-9.

The recitation that the strike plate has a strike plate opening for receiving the locking mechanism, as now set forth in the amended specification and new claims, is supported in the original disclosure at, for example, page 2, lines 28-29 and Figure 2.

Applicant respectfully requests approval and entry of the above amendments to the claims and the specification.

Drawings

The drawings have been objected to as failing to illustrate the features of claim 41, now canceled. Applicant respectfully submits that this objection has been rendered moot by the cancellation of claim 41, and respectfully requests withdrawal of the same.

Specification

The specification has been objected to as failing to describe the features of claim 41, now canceled. Applicant respectfully submits that this objection has been rendered moot by the cancellation of claim 41, and respectfully requests withdrawal of the same.

Claim Rejections – 35 U.S.C. § 112

Claims 42, 43, and 45 have been rejected as unclear. Applicant respectfully submits that this rejection has been rendered moot by the cancellation of these claims, and respectfully requests withdrawal of the same.

Claim Rejections – 35 U.S.C. § 103

1. Claims 1-21, 39, and 47

Claims 1-21, 39, and 47 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,491,326 to Massey et al. (Massey) in view of U.S. Patent No. 6,684,571 to Hendrickson et al. (Hendrickson) and U.S. Patent No. 3,364,624 to Davis (Davis).

The rejected claims have been canceled, thus rendering this rejection moot. Claims 49-69 and 71 replace claims 1-21 and 39. In the event that the Examiner believes

that any of these new claims are unpatenable over the applied combination of Massey, Hendrickson, and Davis, Applicant respectfully traverses the rejection.

As described in the background section of the specification, the building industry offers astragal designs made of wood, aluminum, and a combination of aluminum and wood. (¶ 0005) Wood is subject to decay, and aluminum astragals require boring into the passive door to accept a locking mechanism such as a dead bolt latch. (¶¶ 0005-0006) Astragals constituted by wood bodies covered with aluminum offer flexibility, but have poor performance and durability, particularly when machined to receive a locking mechanism such as a latch or bolt.

The astragal as now defined in independent claim 49 features a frame including opposite exterior and interior portions spaced from one another to define an elongated open channel, a wooden insert retained in the channel, and a strike plate hardware having an opening aligned with a groove of the wooden insert to receive a locking mechanism. The frame protects the wooden insert from environmental elements to provide longevity not realized by conventional wood door astragals. At the same time, the incorporation of the wood insert in the frame provides performance lacking in some non-wood astragals.

Massey discloses a metallic astragal. Applicant acknowledged in the Background section of the specification that aluminum astragals are known in the art. Thus, Massey is merely cumulative of art already considered by Applicant. Further, Massey is silent as to not only a wooden insert, as acknowledged by the Examiner in the Office Action, but as to the alignment of a groove of the wooden insert with a strike plate opening. The Examiner's attention is directed to Figure 16 of Massey, which discloses strike plates 116 and 118 which attach to an extruded aluminum retainer plate 111 using mounting "dogs"

126 for receiving screws. Even if these “dogs” 126 were considered as inserts, the dogs 126 are not made of wood and do not have grooves for receiving a locking mechanism.

The Examiner next cites to Davis, in particular Figure 4, as disclosing

an astragal 15” comprising a spacer 28” having a distal end 60” protruding outwardly from a major surface ... of a side portion in a direction that is substantially parallel to an interior flange 20” and substantially perpendicular to said major surface.

(Final Office Action, page 5, 1st full paragraph.)

Applicant note that the “spacer” feature is not recited in independent claim 49, although it is recited in new claim 50. Applicant has explained in its previous response that the alleged spacer of Davis, *i.e.*, alignment screw 28”, is used to adjust a molding assembly so that it can attach to the buck of a door frame having different widths (see Fig. 3). In contrast, claim 50 recites a spacer for preventing the outer edge of a passive door from contacting a side portion of a frame in an astragal assembly. The alignment screw in Davis does not come in contact with a door. The spacer of claim 50 and the alignment screw of Davis are two different elements which serve completely different functions.

In the Final Office Action, the Examiner found this argument to be unpersuasive because “the applicant is only claiming the subcombination of an astragal.” (Final Office Action, page 14, lines 14-15.) However, Davis has not been cited by the Examiner as an anticipatory reference under Section 102. Rather, the Examiner cites Davis as part of an obviousness rejection under Section 103. The pertinent question is therefore whether one of ordinary skill in the art would have found it obvious to combine Davis’ teachings with the astragal assembly of Massey. Massey’s astragal assembly is not secured to a wall and

therefore would not need the alignment mechanism disclosed in Davis. The motivation for combining Davis with Massey is missing.

The Examiner also asserts that the American Heritage Dictionary defines an astral “as a narrow, convex molding, often having the form of beading.” However, this is not how the Massey ‘492 publication defines an astral. Davis teaches that “astragal assemblies [are] mounted along the vertical inside edge of the normally inactive door of [double door] entryways, against which the active door closes.” (§ 0002 of Massey.) The pertinent question for a Section 103 inquiry is whether a person of ordinary skill in the art would have found it obvious to modify the astragal assembly of Massey (not astrals as defined in the American Heritage Dictionary) based on Davis. Applicant respectfully submits that the Examiner has used hindsight to broaden the Massey ‘492 publication disclosure to cover any “astral” read on by the definition of the American Heritage Dictionary, then further modified this hypothetical astral with Davis. Applicant respectfully submits that this hindsight reconstruction of Massey is improper.

Hendrickson has been cited for its disclosure of “an insert 76a having a wood construction.” (Final Office Action, page 5, last paragraph.) The jamb filler 76a is situated in front of the edge of the window 10, that is, the jamb filler 76a is out of alignment with the window’s edge 10. The jamb 16 serves a purely aesthetic purpose. The jamb 16 lacks a groove or strike plate or comparable hardware because, presumably, the jamb 16 is not aligned with the window 10 to receive a locking mechanism of the window 10.

The Examiner asserts at page 15 of the final Office Action that in view of Hendrickson it would have been obvious to “construct the insert 25 (see figure 2) of

Massey et al. from wood so that the insert would match the wood of the structure to which the astragal is attached.” In response, Applicant first points out that neither the decorative flush bolt cover plate 25 of Figure 2 of Massey nor the wood insert 76a of Hendrickson contains an opening aligned with a groove of an insert. Further, assuming for the sake of argument that cover plate 25 were an “insert” as alleged by the Examiner, the cover plate 25 is not attached to a strike plate as recited in claim 49. To the contrary, the cover plate 25 of Massey is a strike plate, albeit without an opening for receiving a locking mechanism.

For the above reasons, Applicant respectfully submits that the Section 103(a) rejection is misplaced, and respectfully requests reconsideration and withdrawal of the same.

2. *Claims 32-35, 37 and 38*

Claims 32-35, 37, and 38 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Massey in view of Davis.

The rejected claims have been canceled, thus rendering this rejection moot. Claims 81-86 replace claims 32-35, 37, and 38. In the event that the Examiner believes that any of these new claims are unpatentable over the applied combination of Massey and Davis, Applicant respectfully traverses the rejection.

Massey is silent as to the alignment of a groove of the insert with a strike plate opening. The Examiner’s attention is directed to Figure 16 of Massey, which discloses strike plates 116 and 118 which attach to an extruded aluminum retainer plate 111 using mounting “dogs” 126 for receiving screws. Even if these “dogs” 126 were considered as inserts, the dogs 126 do not have grooves for receiving a locking mechanism.

The Examiner next cites to Davis, in particular Figure 4, as disclosing

an astragal 15" comprising a spacer 28" having a distal end 60" protruding outwardly from a major surface ... of a side portion in a direction that is substantially parallel to an interior flange 20" and substantially perpendicular to said major surface.

(Final Office Action, page 5, 1st full paragraph.)

Applicant has explained in its previous response that the alleged spacer of Davis, *i.e.*, alignment screw 28", is used to adjust a molding assembly so that it can attach to the buck of a door frame having different widths (see Fig. 3). In contrast, claim 81 recites a spacer for preventing the outer edge of a passive door from contacting a side portion of a frame in an astragal assembly. The alignment screw in Davis does not come in contact with a door. The spacer of claim 81 and the alignment screw of Davis are two different elements which serve completely different functions.

In the Final Office Action, the Examiner found this argument to be unpersuasive because "the applicant is only claiming the subcombination of an astragal." (Final Office Action, page 14, lines 14-15.) However, Davis has not been cited by the Examiner as an anticipatory reference under Section 102. Rather, the Examiner cites Davis as part of an obviousness rejection under Section 103. The pertinent question is therefore whether one of ordinary skill in the art would have found it obvious to combine Davis' teachings with the astragal assembly of Massey. Massey's astragal assembly is not secured to a wall and therefore would not need the alignment mechanism disclosed in Davis.

The Examiner also asserts in the final Office Action that the American Heritage Dictionary defines an astral "as a narrow, convex molding, often having the form of beading." However, the Dictionary's definition of "astral" is not commensurate with the definition given in the Massey '492 publication. Davis teaches that "astragal assemblies

[are] mounted along the vertical inside edge of the normally inactive door of [double door] entryways, against which the active door closes.” (§ 0002 of Massey.) The pertinent question for a Section 103 inquiry is whether a person of ordinary skill in the art would have found it obvious to modify the astragal assembly of Massey based on Davis. Applicant respectfully submits that the Examiner has used hindsight to broaden the Massey ‘492 publication disclosure to cover any “astral” read on by the definition of the American Heritage Dictionary, even though such definition is inconsistent with Massey. Then, the Examiner has further modified this hypothetical astral with Davis. Applicant respectfully submits that this hindsight reconstruction of Massey is improper.

For these reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

3. *Claim 36*

Claim 36 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Massey in view of Davis and Hendrickson.

The rejected claim has been canceled, thus rendering this rejection moot. Claim 85 replaces claim 36. In the event that the Examiner believes that new claim 85 is unpatentable over the applied combination of Massey, Davis, and Hendrickson, Applicant respectfully traverses the rejection.

Claim 85 depends from new claim 81, and therefore incorporates all of the above-discussed distinguishing features of new claim 81. Hendrickson has been cited for its disclosure of “an insert 76a having a wood construction.” (Final Office Action, page 9, line 10.)

The jamb filler 76a of Hendrickson is spaced in front of the edge of the window 10, that is, the jamb filler 76a is out of alignment with the window's edge 10. The jamb 16 serves a purely aesthetic purpose. The jamb 16 lacks a groove or strike plate or comparable hardware because, presumably, the jamb 16 is not aligned with the window 10 to receive a locking mechanism.

The Examiner asserts at page 15 of the final Office Action that in view of Hendrickson it would have been obvious to "construct the insert 25 (see figure 2) of Massey et al. from wood so that the insert would match the wood of the structure to which the astragal is attached." In response, Applicant first points out that neither the decorative flush bolt cover plate 25 of Figure 2 of Massey nor the wood insert 76a of Hendrickson contains an opening aligned with a groove of an insert. Further, assuming for the sake of argument that cover plate 25 were an "insert" as alleged by the Examiner, the cover plate 25 is not attached to a strike plate as recited in claim 85. To the contrary, the cover plate 25 of Massey is a strike plate, albeit without an opening for receiving a locking mechanism.

For the above reasons, Applicant respectfully submits that the Section 103(a) rejection is misplaced, and respectfully requests reconsideration and withdrawal of the same.

4. *Claims 40, 41, 45, 46, and 48*

Claims 40, 46, and 48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Massey in view of Hendrickson. Claim 41 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Massey in view of Hendrickson, and further in view of U.S. Patent No. 5,758,458 to Ridge ("Ridge"). Claim 45 has been rejected

under 35 U.S.C. § 103(a) as being unpatentable over Massey in view of Davis, and further in view of Hendrickson.

The rejected claims have been canceled, thus rendering this rejection moot. Applicant respectfully requests withdrawal of these rejections.

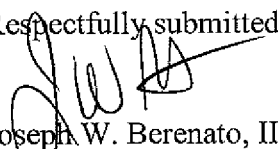
Conclusion

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

If any further fees are required in connection with the filing of this response, please charge the same to our Deposit Account debit Account 50-0548.

Respectfully submitted,



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